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“ The chemical industry deserves urgent attention because the stakes are high, the opportunities for terrorists are rich, and no credible oversight process exists. It is the very ubiquity of the U.S. chemical industry that gives it potential to be a serious source of national alarm.”
--- *"America the Vulnerable"* by Stephen Flynn, Council on Foreign Relations

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FOR IMMEDIATE RELEASE

Bush Administration AWOL on Chemical Plant Security

Washington, D.C.--- On October 18, 2004 Public Citizen released a report, "Homeland Unsecured" (www.HomelandUnsecured.org), which details Bush administration failures in five sectors of homeland security – chemical plants, nuclear plants, hazardous materials transport, ports and water systems. Greenpeace spokesperson Rick Hind said, "The vulnerability of U.S. chemical plants and hazardous rail transports to terrorists is one of the most deadly threats we face. Instead of getting tough with the chemical industry the Bush administration has treated them like best friends. President Bush has been AWOL in protecting Americans from a threat that is lurking in thousands of communities across the country."

"The good news is that the risks posed by chemical plants and train shipments are preventable. In fact, the most serious threats can actually be eliminated thanks to safer available chemicals and safer rail routes. The bad news is that the Bush administration would rather listen to the Dow and ExxonMobil lobbyists than take action to prevent a disaster," said Hind.

Three examples of the Bush administration's failures on chemical security:

- 1) The Bush administration killed a promising June 2002 EPA proposal that had similar elements to pending legislation in Congress. --- Documents available on request.
- 2) The Bush administration had the Department of Homeland Security (DHS) "down sized" by 43 percent the number of chemical plants the EPA identified as posing a risk to 1,000 or more people. --- Documents available on request.
- 3) The Bush administration has reached an agreement with the railroads on security for shipping extremely hazardous chemicals through Washington, D.C. but will not announce it until mid-November. The comment period for new rail security plans considered by DHS closed October 18, 2004. --- Documents available on request.

The Wall Street Journal (8/20/04) revealed that the Bush administration has down-sized the number of high priority chemical plants identified by the EPA as vulnerable. According to the EPA, more than 100 chemical plants put a million or more people at risk. The DHS cut that list down to "two" claiming that their disaster model is "more lethal" and realistic. The DHS's new ranking reduces the overall universe of chemical facilities that threaten 1,000 or more people by 43 percent. This will ignore more than 3,000 plants.

Internal DHS documents also show that a new DHS web cam program is limited to only 17 facilities in seven states: CA, TX, IN, PA, NJ, IL, MI. This \$4.2 million government funded project is indicative of the triage approach the DHS has taken to chemical plant security. These documents show that the new DHS universe of plants ignores many states where the EPA has identified over 100 facilities that put a million or more people at risk. These states include PA, OH, FL, WI, MN, WA, AZ, CO, NV, TN, MD.

Internal EPA documents show that not only have no new industry-wide regulations been issued or implemented since September 11th but a promising June, 2002 EPA proposal similar to a bill pending in Congress (S. 157) by Sen. Jon Corzine was overruled by the White House in the fall of 2002.

The Corzine bill would have beef up security and required industry to assess the availability of safer proven chemicals or technologies. It was unanimously voted out of the Senate Environment and Public Works Committee on July 25, 2002. Like the Corzine bill, the EPA proposal included "substituting less hazardous chemicals for extremely hazardous ones."

A good example is the conversion of Washington, DC's main sewage treatment plant from chlorine to safer chemicals just eight weeks after 9/11. And it only increased water rates by .50 a year per customer. When chemical security came up in the second debate the President suggested there were not enough resources. However, the Congressional Budget Office estimated that the regulatory cost for different chemical security legislative proposals ranged from \$20 million (Corzine) to \$31.5 million (Inhofe) a year which is well within the range of current DHS outlays of \$25 million a year.

In the fall of 2002 the White House overruled an EPA chemical security proposal that included guidance and regulations that were to be formally rolled out at a White House media event in June. If it had been implemented, "higher priority chemical facilities should be able to complete a vulnerability assessment and address security vulnerabilities as described in the guidance in 12-18 months" according to EPA's proposal. The first phase of the program could have been completed by July 2003.

The EPA documents included a Q & A sheet for EPA Administrator Christine Whitman saying, "EPA is not seeking legislation on chemical security at this time. Using existing authority under the Clean Air Act, we believe that the guidance and regulation I have announced today are the QUICKEST PATHS to improving chemical facility security...If we later find that there are legislative gaps, then we will consider seeking legislation."

In July 2002 the Corzine bill won unanimous support in the Senate Environment and Public Works (EPW) Committee. After voting for it in July, Senator James Inhofe (R-OK) led other Republicans in opposition to the bill. Combined with lobbying by industry (American Chemistry Council, American Petroleum Institute, etc.) no chemical security legislation was included in the Homeland Security Act passed in the fall of 2002.

After the November 2002 election, with a newly elected Republican controlled Congress, the industry and White House finally embraced legislation. In October 2003 the Corzine's bill (S. 157) was substituted by an Inhofe bill (S. 994) in the EPW Committee on a party line vote and has languished ever since.

On December 17, 2003 President Bush issued a directive (Directive/Hspd-7) limiting EPA's role on chemical security to "drinking water and water treatment systems." Under questionable legal authority, this shifted all responsibility for 15,000 chemical plants to the DHS) which has no experience with the industry or an inclination to regulate them.

On the related issue of transporting hazardous chemicals, the preponderance of disaster scenarios submitted to the EPA are 90 ton rail cars of chlorine and other toxic-by-inhalation substances (TIH). The Bush administration's Transportation Security Administration didn't have their first meeting on this threat until February 18, 2004. Since then they have opposed re-routing proposals by the Washington, D.C. City Council (B15-0525) and nationally by Representative Edward Markey (H.R. 4824).

In response to the undisclosed agreement between the Bush administration and railroads and an August 16, 2004 DHS/DOT invitation for comments on security plans for transporting TIH substances, Greenpeace submitted extensive comments to the DHS and DOT regarding their agreement and failure to promulgate regulations to re-route extremely hazardous cargo around populous cities such as Washington, D.C. The comment period closed on October 18, 2004.

An excerpt of the Greenpeace comments:

“After months of delays (see page 9), we must register our extreme concern that before the closing of this comment period we have learned from informed sources that the federal government has reached an agreement with the railroads on a rail security plan for the Washington, D.C. area. In addition, we have learned that any re-routing by CSX may be ‘voluntary’ and that this arrangement will not be announced until mid-November. This smacks of political game playing which has no place in crucial homeland security issues.

“Voluntary solutions are unworkable and unenforceable. To buckle under industry pressure on civil defense matters is unseemly. In an April 6, 2004 letter to Greenpeace Transportation Security Administration (TSA) administrator Admiral Stone said, ‘securing the District of Columbia rail corridor’ was ‘the baseline for shaping national policies in the transport of hazardous materials for other high rail traffic areas’ we believe any agreements or decisions regarding Washington, D.C. should not wait until after the election but should be announced immediately.”

The separation of chemical plant regulation and transportation regulation is a historic artifact that should not impede the new DHS's policies and practices on security. For example, 90 ton rail cars literally connect all U.S. chemical plants, turning America's backyard into a gigantic vulnerability zone. The overwhelming majority of EPA's disaster scenarios submitted by the chemical industry use a catastrophic release from a 90 rail car, their most common worst-case scenario.

Congress recessed without including chemical security or hazardous materials transport legislation in the 9/11 Commission Report recommendations in either of the bills passed by the House and Senate.

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